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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/557,287	11/18/2005	Osamu Otaka	VPM-00401	8520
54/004 7590 04/02/2008 MUIRHEAD AND SATURNELLI, LLC 200 FRIBERG PARKWAY SUITE 1001 WESTBOROUGH, MA 01581				
EXAMINER				
EL-ZOOBI, MARIA				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/557,287

**Applicant(s)**

OTAKA ET AL.

**Examiner**

MARIA EL-ZOOBI

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 May 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)
- Paper No(s)/Mail Date 09/19/2008
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to because Fig. 2 the elements are not labeled. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

2. Claim 7 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim 6. See MPEP § 608.01(n). Accordingly, the claim 7 not been further treated on the merits.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 7, lines 3-4 recites the limitation "in which data into which one of an image file, a sound file, and a program file is split is coded", it is not clear from what, how and which element is split.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being unpatentable by Mault (US Publication 2002/0047867).

Regarding claim 1, Mault discloses, a mobile communication terminal (Paragraph 0038) comprising:  
image shooting means for shooting an image (Paragraph 0039 and Fig. 1A, el. 12)  
image data memory means for memorizing data of a code image shot by said

image shooting means (Paragraph 0040 and 0046; an image of barcode is captured and save in the memory)

control means for controlling said image shooting means and said image data memory means (Paragraph 0040 and Fig. 1B, el. 24) and

application program executing means for executing an application program registered by a user (Paragraph 0043)

wherein said control means can control said image shooting means and said image data memory means based on a control request instruction sent from said application program executing means that is executing the application program (Paragraph 0040 and 0043, so based on a request from the processor that execute the application program, the controller will initiate the capture of the image and then store it).

Regarding claim 2, Mault discloses, an image data analyzing means for analyzing the data of the code image so that coded data in the code image can be restored (Paragraph 0046, 0077, 0081 and

analysis data memory means for memorizing data of an analysis result obtained from said image data analyzing means (Paragraph 0080), wherein

said control means can control said image data analyzing means and said analysis data memory means along with said image shooting means and said image data memory means, based on the control request instruction (Paragraph 0045-0046; the user has a selection menu where he can initiate a request to perform a desired

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action, so when a user selects an option a signal transmitted to the processor  
Paragraph

0040 to control the mentioned parts).

Regarding claim 3, Mault discloses, said control means includes plural types of reading control modes used when the code image is shot and data analysis is performed, and selects, based on the control request instruction, a reading control mode from the plural types of reading control modes and performs the control based on the selected reading control mode (Paragraph 0017 and 0021, lines 1-3; there are different type of reading control mode depending on the type of code which is being record by the imaging system, i.e., an alphanumeric code, a barcode, a product code, etc., also the system is able to take two-dimensional image, so when the user send a control request instruction "by selecting from the presented menu" Paragraph 0045 and 0040, then use the UPC to interpreted the product and use this information in many ways, for example see Paragraph 0055).

Regarding claim 4, Mault discloses, said analysis data memory means can memorize data of a plurality of analysis results (Paragraph 0080-0081; the information from analyzing the code image can be stored, this info may include for example, a product name, nutrition info and a like) and

said control means performs the control so that data of the analysis results is read from said analysis data memory means and the data is passed to said application program executing means, based on the control request instruction (Paragraph 0081

0043, 0019 and 0020; so after the cod image of an item is take, analyzing the code image to identify the item then the analyzed result will be transferred to the application program for further processing, for example creating a log diet or calculate the calories; it is inherent that mentioned process is preformed based on the request instruction, the user will decide what application program will use based on his/her needs).

Regarding claim 5, Mault discloses, said image data analyzing means has plural types of code image recognition processing functions for data analysis of a code image (Paragraph 0077; there are different types of "image recognition" algorithms and since the image could be a code image then the limitation is met) and

performs data analysis on the code image using a code recognition processing function selected from the plural types of image recognition processing functions and said control means performs the control so that the code recognition processing function is selected based on the control request instruction (Paragraph 0081; analyze the barcode image using image analysis software which uses an image recognition algorithm, see Paragraph 0077),

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mault (US Publication 2002/0047867) in view of Algazi (US Publication 2002/0083022).

Regarding claim 6, Mault discloses, the code image can have a supplemental information that can be in associating with the code image (Paragraph 0084 and 0085) and that the user uses the data of the analysis result in the application program.

Mault does not disclose that the code image has an image portion in which use permission/non-permission information is coded, the information specifying whether to permit a use of the data of the analysis result in the application program, and said control means determines whether to pass the data of the analysis result to said application program executing means, based on the use permission/non-permission information contained in the data of the analysis result.

Algazi discloses, that the code image (Barcode) could be associated with a code that will be used as a key to access information, in other words to give the user the permission/non permission for getting extra information about the product. (Paragraph 0026).

Therefore, it would have been obvious to one with ordinary skill in the art, at the time the invention was made, to modify Mault with the teaching of Min in order to enable only the user who subscribe a service from obtaining information about the desired product.



Regarding claim 7, Mault discloses wherein said control means performs the control so that a plurality of code images are shot and memorized (Paragraph 0007; so more than one image can be recorded)

Mault also discloses that an image could have an image portion that has a sound file, which is provided as supplemental data with the image file (Paragraph 0084) and that the images are captured, analyzed then send to the application program executing means for further implementation.

Mault is silent about that the image or sound file is coded into binary data.

Yamaguchi discloses that the information in the code image is coded into binary data (Paragraph 0055, 0068 and also see Fig 3 and Fig. 5).

Therefore, it would have been obvious to one with ordinary skill in the art, at the time the invention was made to modify Mault with Yamaguchi teaching in order to provide binary data in the captured image so to enable the transmission of said captured image over wireless communication links.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARIA EL-ZOOBI whose telephone number is (571)270-3434. The examiner can normally be reached on Monday-Friday (8AM-5 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on 571-272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Supervisory Patent Examiner, Art Unit 2614

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